citizen to criticize the decisions of the courts in a fair manner. But the right of fair criticism does not carry with it the liberty to engage in such conduct as to impugn the integrity of a judge presiding in a pending case and to create disrespect for the courts and judicial officers. This is not to say that an attorney may not criticize the decisions of a court at any time. But, as aptly put by the court below, an attorney cannot litigate on a given case by day and castigate by night (or at recess) the very court that he is appearing before. As stated in *United States v. Markewich*, 261 Fed. 537:

> ". . . . Of all men, none owes a more scrupulous allegiance to law and order than the lawyer. If he advises and encourages disrespect for the courts, and indulges in false statements concerning them, he helps undermine the very government to which he has sworn to be loyal. He thus forgets his obligations, both as a citizen and as a member of the bar. The wrong he does affects not only the courts, but the bar as well." *Id.* at 540.

Imposition of the clear and present danger test of *Bridges, Pennekamp,* and *Craig* upon the conduct of an attorney would nullify the very first and important canon of ethics by which all attorneys are bound. The rejection of the clear and present danger test by the court below can be deemed improper only if this Court is willing to emasculate the basic duty of the lawyer to the courts which this canon enunciates. But this Court has indicated in *Theard* that a lawyer is bound by reasonable rules of court and his conduct cannot be as unbridled as that of a layman's:

". . . The court's control over a lawyer's professional life derives from his relation to the responsibilities of a court. The matter was compendiously put by Mr. Justice Cardozo, while Chief Judge of the New York Court of Appeals. ' "Membership in the bar is a privilege burdened with conditions" (*Matter of Rouss,* [221 N.Y. 81, 84, 116 N.E. 782, 783]). The appellant was received into that ancient fellowship for something more than private gain. He became an officer of the court, and, like the court itself, an instrument or agency to advance the ends of justice.' *People ex rel. Karlin v. Culkin,* 248 N.Y. 465, 470-471, 162 N.E. 487, 489. The power of disbarment is necessary for the protection of the public in order to strip a man of the implied representation by courts that a man who is allowed to hold himself out to practice before them is in 'good standing' so to do." *Theard v. United States,* 354 U.S. 278, 281.

This tribunal has also made it clear that it will unhesitatingly protect counsel in fearless, vigorous and effective performance of advocacy on behalf of all persons though identified with unpopular causes. "But it will not equate contempt with courage or insults with independence. It will also protect the processes of orderly trial, which is the supreme object of the lawyer's calling." *Sacher v. United States,* 343 U.S. 1, 13-14. It is interesting to note that the majority and dissenting opinions did not allude in *Sacher* to the freedom of speech of the attorney-appellant therein and the clear and present danger test urged herein.

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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1958.

No. 326

In the Matter of Disciplinary Proceedings against
HARRIET BOUSLOG SAWYER,
a Member of the Territorial Bar of the Territory of Hawaii,
Petitioner.

BRIEF OF RESPONDENT.

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Fisher v. Pace, 336 U.S. 155, involved an attorney who exceeded the bounds of permissible arguments to the jury and who persisted in arguing the points held inadmissible, despite the court's admonitions. To follow the First Amendment argument of petitioner herein to its utmost logical end under such circumstances would be to lead to the conclusion that First Amendment rights were involved as to invoke the clear and present danger rule. But this Court saw "nothing in their [Texas Supreme Court's] opinion or conclusion that indicates any disregard of petitioner's rights." *Id.* at 162. It quoted with approval, the state supreme court's opinion that the trial judge's rulings are subject to review in the appellate courts, but the trial judge has the power to make such rulings, right or wrong. ". . . 'If they are erroneous the injured party has the plain, simple and adequate remedy of appeal. It was thus the duty of counsel to abide by his decisions even if erroneous; and if any rights of his clients were violated the remedy was by exception and appeal. Any other procedure would result in mockery of our trial courts and would destroy every concept of orderly process in the administration of justice.' " *Id.* at 162. The constitutional protection of free speech, therefore, was never in issue.

The foregoing decisions of this tribunal amply demonstrate that the rulings of the lower courts in the case at bar are in no way in conflict with the applicable decisions of this Court. They place in proper perspective these cases of local disciplinary actions against attorneys. They do not blow up the chastise-

ment of attorneys under applicable rules of conduct and canons of ethics into a constitutional *cause célébre.* The courts below in the instant case deviated not one iota from the rulings of this tribunal.

Petitioner further urges certiorari to determine the proper relations between the territorial court and the federal court in matters of discipline by the territorial court for conduct concerning the federal court. The point made seems to be that petitioner's misconduct involved an attack upon the administration of justice in the United States District Court of Hawaii and upon the presiding judge of said court and that petitioner's interview of a juror under the circumstances found by the courts below involved a juror in a federal case. Therefore, the territorial court improperly established standards of conduct for federal attorneys in cases before federal courts. The adjunct to this argument, carried to its logical conclusion, would be that as long as petitioner misconducts herself within the confines of federal court jurisdiction, the territorial court must stand aside and leave her alone until she misconducts herself on the territorial side of the street. To press this argument further, if petitioner misconducts herself in any jurisdiction other than Hawaii, the territorial court must again stand aside and wait for her misconduct on its side of the street.

The fallacy of this contention seems obvious. Certiorari to determine this question would only result in the affirmation of the rule enunciated over and over again by this Court that the power to disbar is inci-

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In the Supreme Court
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OCTOBER TERM, 1958

No. 326

In the Matter of Disciplinary Proceedings against
HARRIET BOUSLOG SAWYER,
a Member of the Territorial Bar of the Territory of Hawaii,
Petitioner.

BRIEF OF RESPONDENT.

QUESTIONS PRESENTED.

1. Whether the disciplinary proceeding in the territorial court for gross misconduct involved federal law.

2. Whether the rulings of the court below decided important questions of federal law and decided federal questions in conflict with the applicable decisions of this Court.

3. Whether the rulings of the courts below set up standards of conduct for the federal court and interfered with the relations between territorial courts and federal courts.

4. Whether the findings of the courts below necessitate certiorari under the "two-court rule" of this Court as to require the supervision of this Court.

STATEMENT OF THE CASE.

The statement of the case presented in the petition for writ of certiorari (pp. 6-13) inserts matters of opinion and argument and presents a summary of the evidence based primarily on petitioner's view of such evidence. Respondent will discuss the evidence based upon specific pages of the record in the argument portion of this brief.

SUMMARY OF ARGUMENT.

The petition for a writ of certiorari should be denied in that no important unsettled question of federal law is involved and no federal question has been decided in a way in conflict with the applicable decisions of this Court. The proceeding in question involves a local question of the violation of the canons of ethics applicable in the territorial jurisdiction. The local court has the inherent and statutory power to discipline a member of its bar and this Court does not sit in judgment on the exercise of such power. First Amendment rights are not involved and the clear and

present danger rule has no application. There was no declaration by the local court of the law and standard of conduct for the federal court. The local court, as the primary licensing jurisdiction, has the inherent power to discipline for misconduct unworthy of an attorney committed in the local, federal, and any other jurisdiction.

ARGUMENT.

I.

THE PETITION FOR WRIT OF CERTIORARI SHOULD BE DENIED IN THAT NO IMPORTANT UNSETTLED QUESTION OF FEDERAL LAW IS INVOLVED AND NO FEDERAL QUESTION HAS BEEN DECIDED IN A WAY IN CONFLICT WITH THE APPLICABLE DECISIONS OF THIS COURT.

The position of respondent Bar Association of Hawaii has consistently been that the case at bar is a disciplinary proceeding of a local, territorial nature with no federal implications. This proceeding merely involves a local question of the violation of the canons of ethics by one licensed to practice in the territorial courts.

That the power to disbar an attorney is incidental to the local court for the maintenance of the respectability of the bar and preservation of its harmony with the bench was early decided by Chief Justice Marshall, speaking for this Court, in *Ex parte Burr,* 9 Wheat. 529. It is also well-settled that by the rules and practices of common-law courts, "it rests exclusively with the court to determine who is qualified to become one of its officers, as an attorney and coun-

sellor, and for what cause he ought to be removed," subject, of course, to sound judicial discretion to maintain and guard the independence of the bar and the dignity of the court. *Ex parte Secombe,* 19 How. 9. A disciplinary proceeding by a local court "is not for the purpose of punishment, but for the purpose of preserving the courts of justice from the official ministration of persons unfit to practice in them." *Ex parte Wall,* 107 U.S. 265, 288.

The rights and duties of an attorney are manifold. The pertinent duty involved in the case at bar is simple. As stated by this Court in *Bradley v. Fisher,* 13 Wall. 335, 355:

> ". . . the obligation which attorneys impliedly assume, if they do not by express declaration take upon themselves, when they are admitted to the bar, is not merely to be obedient to the Constitution and laws, but to maintain at all times the respect due to courts of justice and judicial officers. This obligation is not discharged by merely observing the rules of courteous demeanor in open court, but it includes abstaining out of court from all insulting language and offensive conduct toward the judges personally for their judicial acts."

The Circuit Court of Appeals affirmed the finding of the territorial court that petitioner, by her conduct, impugned the integrity of the judge presiding in a pending case in which petitioner was one of the defense attorneys, and thus tended to create disrespect for the courts of justice and judicial officers, contrary to her obligations and duties assumed as an attorney

licensed to practice in the territorial courts. As shall be demonstrated in Point II, *infra*, the finding affirmed by the court below was in strict conformity with the rule enunciated in *Bradley v. Fisher, supra.*

This Court more recently recognized the important status of the local court in determining the fitness of an attorney to remain a member of such local court in *Selling v. Radford*, 243 U.S. 46. In that case, this Court chose to permit the respondent to file the records of the state court (the Michigan Supreme Court which disbarred him from practice in Michigan for professional misconduct) to point out any ground, within the limitations set, which would prevent this Court from giving effect to the conclusions of the state court to disbar respondent from the Bar of this Court. This Court viewed the conclusions of the state court to be controlling as far as the respondent's disbarment from practice in the state court was concerned. It recognized the absence of fair private and professional character inherently arising as the result of the action of the state court, subject only to certain limitations, as far as respondent's disbarment from practice in this Court was concerned. See also *In re Isserman*, 345 U.S. 286, 348 U.S. 1.

Most recently in *Theard v. United States*, 354 U.S. 278, decided on June 17, 1957, this Court recognized the sanctity of local state disbarment proceedings. As stated in *Theard*, "It is not for this Court, except within the narrow limits for review open to this Court, as recently canvassed in *Konigsberg v. California*, 353 U.S. 252, and *Schware v. Board of Bar Ex-*

dental to the local court and that the ruling consideration is the preservation of the respectability of the bar and maintenance of justice, unsullied by the ministrations of persons unable or unwilling to uphold the dignity of the profession and to improve not only the law but the administration of justice. *Ex parte Burr,* 9 Wheat. 529; *Ex parte Secombe,* 19 How. 9; *Ex parte Wall,* 107 U.S. 265; *Bradley v. Fisher,* 13 Wall. 335. Misconduct, whether on the federal or territorial side of the street, is misconduct that invites and merits stern and just condemnation by either court.

Petitioner misconstrues *In re Isserman,* 9 N.J. 269, 87 A. 2d. 903. She states that the state court (New Jersey) determined the fitness of Isserman to remain a member of its bar on the basis of the federal court's determination that he had committed an offense against the federal court. Even a cursory reading of that case would clearly show that the state court, as the jurisdiction primarily responsible for Isserman's conduct at the bar, applied its own standard of conduct to the actions of Isserman before the federal court. No other conclusion can be reached from the following words of Chief Justice Vanderbilt:

> ". . . The respondent must be judged by the standards of practice prevalent here. It is unthinkable that any one of the many incidents for which the respondent was convicted of contempt in New York could have occurred in New Jersey. The mutual respect that our bench and our bar have traditionally had for each other and their high regard for the administration of justice would have precluded any such conduct by an

> attorney here. . . . In fairness to the courts of other jurisdictions and out of a decent respect for the opinion of the people of this State, we cannot permit a lawyer admitted to practice in New Jersey to do in the courtroom of another jurisdiction what he would never have been allowed to do here. To do so would bring into disrepute our bar, our bench and our entire judicial establishment." *Id.* at 907.

This determination did not declare the law for the federal court. It declared a standard of conduct for attorneys licensed to practice in New Jersey to be followed in any jurisdiction, local or federal. The determination of the courts below in the case at bar did nothing more than *Isserman.* It did not establish "standards of conduct for federal attorneys in cases before federal courts" as charged by petitioner. It established a standard of conduct for attorneys licensed by the territorial court to be followed and observed by such attorneys in any jurisdiction. There was no usurpation of the federal court's power. Indeed, the federal court is free to bring disciplinary proceedings against petitioner irrespective of the action of the territorial court.[1] See *Selling v. Radford,* 243 U.S. 46; *In re Isserman,* 345 U.S. 286, 348 U.S. 1; *Theard v. United States,* 354 U.S. 278.

The disciplinary case of *Geibel v. State Bar of California,* 11 Cal. 2d 412, 79 P.2d 1073, 1074, 1075

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[1]The United States District Court for the District of Hawaii issued an Order of Suspension dated April 7, 1956 against respondent (In the Matter of Harriet Bouslog Sawyer, also known as Harriet Bouslog, an Attorney at Law, Misc. No. 649) pursuant to Rule 1(d) of the Rules of Civil Procedure of that court.

(1938), *cert. den.* 305 U.S. 653, *reh. den.* 305 U.S. 676, clearly states the rule with numerous citations:

> "If an attorney admitted to practice in the courts of this state commits acts in reference to federal court litigation which reflect on his integrity and fitness to enjoy the rights and privileges of an attorney in the state courts, proceedings may be taken against him in the state court. People v. Green, 9 Colo. 506, 13 P. 514, 524; State v. Grover, 47 Wash. 39, 91 P. 564; In re Lamb, 105 App. Div. 462, 94 N.Y.S. 331; In re Sherwood, 259 Pa. 254, 103 A. 42, L.R.A. 1918D, 447; Selling v. Radford, 243 U.S. 46, 37 S.Ct. 377; 61 L.Ed. 585, Ann. Cas. 1917D, 569; 5 Am. Jur. 433; 7 C.J. Sec., Attorney and Client, § 18, p. 730."

This Court recently recognized the same rule in *Theard v. United States, supra,* stating that "The two judicial systems of courts, the state judicatures and the federal judiciary, have autonomous control over the conduct of their officers, among whom, in the present context, lawyers are included." *Id.* at 281. This Court made it clear that it was not sitting in review of the state court judgment of disbarment of respondent therein. Recognition was accorded the state court judgment insofar as the state disbarment was concerned; the federal disbarment proceeding of the same attorney for the same alleged misconduct to determine his fitness to practice in the federal courts was deemed the responsibility of the federal judiciary. The "deference" which the petitioner herein insists on imposing upon the territorial and federal courts, each to the other, is of no moment here. Each

court, in pursuit of its autonomous control over its attorneys and its inherent authority to maintain the honor and integrity of a profession which depends upon public trust and confidence for its very existence, is permitted and, in fact, obliged to demand that all lawyers meticulously adhere to the standards of conduct that would merit such public trust and confidence. As stated by the court below, the Territory should be commended rather than chided for so doing. The federal law, recognizing this inherent right, has been enunciated by this tribunal from its earliest pronouncement by Chief Justice Marshall in *Ex parte Burr* to the most recent pronouncement by Mr. Justice Frankfurter in *Theard*. Certiorari for a further pronouncement is needless and, in this case, would show no federal law that needs to be settled and no conflict with applicable decisions of this Court.

II.

THE FINDINGS OF THE TERRITORIAL COURT WERE AFFIRMED BY THE CIRCUIT COURT OF APPEALS ON THE BASIS OF CLEAR AND CONVINCING EVIDENCE OF RECORD. THE COURTS BELOW DID NOT DEPART FROM NOR IN ANY WAY SANCTION A DEPARTURE FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR THE EXERCISE OF THIS COURT'S POWERS OF SUPERVISION ON THE GROUND OF ARBITRARINESS OFFENSIVE TO DUE PROCESS.

This Court has held that as to disbarment, due process requires only that an attorney have reasonable notice of the charges against him and a reasonable opportunity to be heard in his defense. *Ex parte*

Wall, 107 U.S. 265; *Randall v. Brigham,* 7 Wall. 523. The manner in which such notice is given and the proceeding is conducted is a matter of judicial regulation and within the sound discretion of the court. *Randall v. Brigham, supra; Phipps v. Wilson,* 186 F.2d 748 (7th Cir.); *In re Henriques,* 34 Haw. 348.

The record of the disciplinary proceedings on the territorial level indicates that every constitutional requirement of due process has been met. See *Bute v. Illinois,* 333 U.S. 640; *Herbert v. Louisiana,* 272 U.S. 312; *Holden v. Hardy,* 169 U.S. 366.

The disciplinary proceedings against petitioner were instituted in the Supreme Court of the Territory of Hawaii by the Bar Association of Hawaii, an unincorporated association. The complaint was filed on July 8, 1954, under Rule 19 of the Rules of the Supreme Court of the Territory of Hawaii then in effect.[2] (R. 3-4.)

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[2]Petitioner makes the charge that "the bar association devised an amendment to the Territorial Court's rules permitting the association to file such complaints." (Petition for Writ of Certiorari, p. 12.) Petitioner seems to take the aggrieved posture of one being conspired against and persecuted by all of the members of the Bar. There is no such evidence of record to support this ridiculous charge. And no such evidence can be shown. However, assuming arguendo that the charge is true, it is generally accepted that rules of court with regard to disciplinary proceedings against attorneys can operate retrospectively (*In re Noell,* 234 Mo. App. 1162, 96 S.W.2d 213); and that the statutory method and procedure for disciplining attorneys is not exclusive and does not fetter the courts in the exercise of their inherent power to proceed against unworthy attorneys (*State v. Spivey,* 213 N.C. 45, 195 S.E. 1; *In re Rudd,* 310 Ky. 630, 221 S.W.2d 688). It is also an elementary proposition that the ex post facto doctrine relates exclusively to criminal or penal statutes (11 Am. Jur. 1179), and it cannot be maintained that the procedural changes involved constitute a denial of due process to petitioner (*In re Craven,* 178 La. 372, 151 So. 625).

The complaint was referred on July 8, 1954 as secret file number 45 to the Committee on Legal Ethics and Unauthorized Practice of Law (hereinafter referred to as the Ethics Committee). The Bar Association was ordered on September 21, 1954, to file a bill of particulars or to amend paragraph III of its complaint, making more specific its charge involving petitioner's interview with the juror in the *Fujimoto* case. The same order required petitioner to file such special pleas to the jurisdiction of the Ethics Committee, the sufficiency of the complaint and a clarification of her request that the hearing be postponed until after the disposition of the *Fujimoto* case (R. 95, 96). The bill of particulars was filed as ordered and petitioner, through her attorney, J. Garner Anthony, advised the said Committee by letter dated October 14, 1954, that she would file no special plea to the jurisdiction nor press for a continuance and announced herself ready to proceed. (R. 105.)

The Ethics Committee proceeded to hold a hearing on November 22, 1954, to investigate the charge made in the complaint, to wit: (1) the alleged improper conduct of petitioner in making the Honokaa speech, and (2) the alleged improper conduct in interviewing a juror in the *Fujimoto* case and filing an affidavit without disclosing all of the facts and circumstances connected thereto. Said Ethics Committee was composed of six respected members of the Bar. Petitioner was represented by J. Garner Anthony. (R. 135.) Testimony of 19 witnesses and numerous exhibits were presented to the Ethics Committee on November 22, 23, and 24, and December 2, 3, 6 and 8, 1954. Said

testimony covered two volumes of 429 typewritten pages (R. 131) and covers 408 pages of the 546-page Transcript of Record. (R. 135-542.)

After these hearings, the Ethics Committee, on July 1, 1955, filed a report of the charges, facts and conclusions pursuant to Rule 19. The Ethics Committee found that petitioner, while one of the attorneys for certain defendants in the *Fujimoto* case, made a speech at a public gathering at Honokaa during the course of the trial, "at which she said among other things, that horrible and shocking things were going on at the trial; that there was no fair trial of the case; that they just made up the rules as they went along, that unless the Smith Act trial was stopped in its tracks in Honolulu there would be a new crime." (R. 15.)

The Committee further found that after the verdict in the *Fujimoto* case, petitioner visited one of the jurors, David P. Fuller, Jr., while he was in a very poor mental and physical condition and, in submitting her affidavit concerning said interview, petitioner "did not fully disclose to the court the condition of Mr. Fuller, nor the fact that she had attempted to get affidavits from Mrs. Fuller, who refused to sign one, and could not get an affidavit from Mr. Fuller because of his condition."

Upon these findings, the Ethics Committee was of the unanimous opinion that the charges of the complaint were sustained by the evidence, and that comments made at Honokaa imputing to the judge unfairness in the conduct of the *Fujimoto* trial and im-

pugning the integrity of the local federal courts, and other comments made at Honokaa violated Canons 1 and 22 of the Canons of Professional Ethics of the American Bar Association. (R. 15-16.)

The Ethics Committee was of the further unanimous opinion that "it was improper for appellant to submit her affidavit concerning the interview with the juror Fuller to the Presiding Judge under the circumstances under which it was submitted." (R. 16.)

After a study and consideration of the report of the Ethics Committee, the Supreme Court of the Territory of Hawaii, on July 8, 1955, pursuant to Rule 19, issued to petitioner an order to show cause why the findings, conclusions and recommendations of the Ethics Committee should not be adopted. (R. 131.) The cause was then removed from the secret files to the regular files of the court.

Petitioner was granted an extension of time to September 19, 1955, within which to answer the order to show cause, by order filed July 27, 1955. Further extensions of time to answer were granted petitioner at her request or upon motion. (R. 132.)

Instead of a return to the order to show cause, petitioner then filed, on October 19, 1955, a motion to dismiss the order to show cause. Various memoranda were filed and a hearing held. The motion was denied. (R. 132.)

More time for filing petitioner's return to the order to show cause was requested by petitioner and granted to December 2, 1955, and argument set for January 9, 1956. (R. 109.)

On November 7, 1955, petitioner filed a motion for reconsideration of the order denying the motion to dismiss the order to show cause. The motion was also extensively argued and denied by order filed November 29, 1955. (R. 132.)

A return to the order to show cause was finally filed by petitioner on December 2, 1955. (R. 133.) Another motion for continuance by petitioner followed and another hearing was held. (R. 133.)

On the date set for trial, January 9, 1956, a pre-trial conference was held with all counsel present. Two days later, another delay was occasioned by a suggestion of disqualification of Associate Justices Stainback and Rice of the territorial Supreme Court. (R. 133.) Extensive argument again followed. The territorial court held that neither justice was disqualified. (R. 71-90.) However, Mr. Justice Stainback withdrew *sua sponte* from the hearings. (R. 133.)

It was determined at the pre-trial conference that, under Rule 19 of the Rules of the Supreme Court of the Territory of Hawaii, petitioner was entitled to a *de novo* hearing before the Supreme Court. Petitioner, however, through her counsel, suggested and respondent consented to a submission to the court upon the entire transcript of the record and exhibits developed and submitted to the Ethics Committee. (R. 113.) Briefs were duly filed and an extensive oral argument held March 1, 1956.

By opinion filed April 6, 1956, (R. 93-126), the territorial court found *inter alia* that the allegations

in the complaint were "sustained by convincing proof, by credible evidence of more than a mere preponderance"; that petitioner, while an attorney of record in the *Fujimoto* case and during the course of the trial, did say in her public speech in Honokaa, Hawaii, "that horrible and shocking things were going on at said trial, that a fair trial was impossible, that all of the rules of evidence were being scrapped so that the government could make its case; that the rules of evidence and procedure were made up as the case proceeded, and that unless the trial was stopped in its tracks certain new crimes would be created" (R. 116-117); that petitioner exhibited an evasiveness and lack of frankness as to her conduct and equivocated when faced with the testimony of witnesses, yet admitted authorship of language in a pamphlet entitled "Fear" (Exhibit 6) which revealed great similarity with the language attributed to her in her Honokaa speech (R. 115-116); and that shortly after the verdict in the *Fujimoto* case, petitioner visited a juror in that case and studiedly interrogated him, despite said juror's mental and physical condition of which she was aware. (R. 117.) The court found from the testimony and evidence before it that petitioner engaged and participated in a willful oral attack upon the administration of justice in and by the United States District Court for the District of Hawaii in the *Fujimoto* case and by direct statement and implication impugned the integrity of the judge presiding in the then pending *Fujimoto* case, and thus tended to also create disrespect for the courts of justice and judicial officers generally. (R. 117-118.)

Upon the finding of gross misconduct with respect to the Honokaa speech, the territorial court suspended and prohibited petitioner from the practice of law for a period of one year and to pay all costs and expenses of the proceedings. (R. 118.)

The territorial court also found that petitioner's repeated and studied interrogation of the juror Fuller amounted to gross misconduct but let its disciplinary order of one year suspension and payment of costs suffice.[3] (R. 121.)

A notice of appeal to the United States Court of Appeals for the Ninth Circuit was filed by petitioner on April 13, 1956. (R. 128.)

On the same date and upon her request, petitioner was permitted to maintain the status quo of her business affairs pending appeal to the court below for a stay of suspension. (R. 134.) Said order was extended by the territorial court at petitioner's request on April 26, 1956. (R. 134.)

Petitioner filed a motion in the court below for a stay pending appeal of the order of suspension, or for a writ in aid of that court's jurisdiction dated April

[3]The court specifically found that petitioner's repeated interviews with and interrogations of juror Fuller constituted gross misconduct. (R. 121). Inasmuch as a one-year suspension and charge of costs had already been adjudged on the Honokaa speech charge, the court let that disciplinary order suffice. It is the contention of respondent that the decision to let such disciplinary order stand without further punishment on the juror charge was predicated upon the continued validity and effectiveness of the said punishment on the Honokaa speech charge. The court below found the penalty for the two charges as being imposed concurrently. Be that as it may, both charges were found by both courts to be sustained by the evidence.

23, 1956. Said motion was granted on May 23, 1956. Thence followed three hearings on a motion to dismiss and upon the merits and a final decision of the court below filed on June 9, 1958.

Petitioner urges that the finding of the court below is so dogmatic an inference as to be wholly unwarranted and so arbitrary as to be offensive to due process. (Petition for Writ of Certiorari, p. 21.) Due process is deemed to be violated because, in the view of petitioner, the court below misstated the evidence or by truncation gave it a different meaning and rested the findings upon isolated selections of the evidence. (Petition for Writ of Certiorari, p. 22.) Put more bluntly without fancy verbiage, petitioner is merely saying that the courts below refused to take her present view of the evidence. In the words of the majority of the court below, "Respondent overly dissects the evidence and puts too innocent a gloss on it." (Petition for Writ of Certiorari, App. A, p. 16.)

This Court does not grant certiorari "to review evidence and discuss specific facts." See *United States v. Johnston*, 268 U.S. 220, 227. As stated in *NLRB v. Pittsburgh Steamship Co.*, 340 U.S. 498, 503:

> "This is not the place to review a conflict of evidence nor to reverse a Court of Appeals because were we in its place we would find the record tilting one way rather than the other, though fair-minded judges could find it tilting either way."

Thus, where conclusions of the courts below depend upon appreciation of circumstances which admit of

different interpretations, this Court should not interfere. *NLRB v. Pittsburgh Steamship Co., supra; Federal Trade Comm'n v. American Tobacco Co.*, 274 U.S. 543. And "a court of law, such as this Court is, rather than a court for correction of errors in fact finding, cannot undertake to review concurrent findings of two courts below in the absence of a very obvious and exceptional showing of error." *Graver Mfg. Co. v. Linde Co.*, 336 U.S. 271, 275. No such showing can be made herein.

Petitioner presents a statement of the case (Petition for Writ of Certiorari, p. 6, *et seq.*) which summarizes the evidence in the best possible light for her. Petitioner's analysis of the evidence shreds parts of the record into little threads and interweaves the Honokaa speech into a professorial dissertation on Smith Act prosecutions. The courts below viewed the evidence differently. There is clear and convincing evidence, free from doubt, to support their view of the evidence.

Chronologically stated, the record shows the following: Petitioner made a speech at a public gathering, held under the auspices of the defense committee, consisting largely of members of the International Longshoremen's and Warehousemen's Union at Honokaa, Hawaii, while serving as counsel for certain respondents, including Jack Hall, in the *Fujimoto* case then at trial before the Honorable Jon Wiig, United States District Court Judge for the District of Hawaii. (R. 410.) Jack Hall, one of the defendants in the *Fujimoto* trial is the Regional Director of the ILWU.

In her attempted contradiction of this evidence, petitioner insists that in charging that there is no such thing as a fair trial in the Smith Act case, she was referring to Smith Act cases in general. This contention has no basis in fact. It is firmly established by the foregoing evidence that her charge was directed toward the *Fujimoto* trial. Even assuming arguendo that said charge was meant to refer to Smith Act cases in general, she illustrated and explained her charge with attacks on what was going on at the *Fujimoto* trial. The *Fujimoto* trial being a Smith Act case, the syllogism is manifestly complete. Her contention that she was talking in generalities seems quite lame in the face of her attacks on the type of testimony being admitted in evidence in the *Fujimoto* trial. In illustrating the unfairness of Smith Act cases with specific attacks on Judge Wiig's actions in the *Fujimoto* case, her purported generalities patently ceased to remain generalities.

Petitioner attempts to explain that her charge that all of the rules of evidence were being scrapped so that the government could make its case and that the rules of evidence and procedure were made up as the case proceeded were not directed at Judge Wiig or the court. She points out that Judge Wiig was never mentioned by her. She emphasizes that the pronoun "they" (meaning the government) was used. She contends that her remarks were directed towards the conduct of th prosecuting attorneys. (Petition for Writ of Certiorari, pp. 22-24.)

There is one primary and patent fallacy in these contentions. It is horn-book law that needs no citation of authority that rules of evidence and procedure in any trial are not made by the prosecuting attorneys. That is within the sole and exclusive province of the judge. It is the judge who rules upon the competency, relevancy, and materiality of any evidence offered by the prosecution or the defense. It is the judge who rules upon the proper procedure at the trial. If there be any scrapping of the evidence to permit the prosecution to make a case, if there be any rules of evidence and procedure "made up" as the case proceeds, it is the unjudicial handiwork of the judge and no one else. It follows that the charge that "all rules of evidence were being scrapped so the government could make its case" and that "the rules of evidence and procedure were made up as the case proceeded" was an unvarnished attack which "by direct statement and implication impugned the integrity of the presiding judge" and was an attack upon the administration of justice in and by the said court. The courts below so concluded, and properly so. The conclusion also follows that such attacks, not by a layman, but by an officer of the court favored with the mantle of respectability and authority of a license to practice law, most assuredly tended to create disrespect toward the courts and judicial officers. The courts below so concluded, and properly so.

Only a few words need be said about the finding that petitioner charged that "unless the trial was

stopped in its tracks certain new crimes would be created." Petitioner does not attack the finding that petitioner made such a statement; she only attacks the conclusion that she attacked the administration of justice and impugned the integrity of Judge Wiig. (Petition for Writ of Certiorari, pp. 24-25.) Petitioner again attempts to isolate this charge from the fabric and framework of her speech. Since petitioner does not attack this finding, it is presumed that the record discloses that said finding has a reasonable basis in the evidence. From the admitted valid finding of the court on this matter, it rationally follows that where the conduct of the trial by the judge is characterized as encouraging new crimes (however identified or unidentified) unless stopped in its tracks, the administration of justice and integrity of the judge are questioned. There is indeed a rational connection between the fact admitted as proved and the ultimate fact presumed on this point. Such a charge would certainly also tend to create disrespect for the courts of justice and judicial officers generally. The courts below so found, and properly so.

It is respectfully submitted that the concurrent findings of the two courts below are supported by clear and convincing evidence. The "two-court rule" above referred to is eminently applicable herein. There is no need for the exercise of this Court's power of supervision as to necessitate the granting of certiorari.

CONCLUSION.

Upon all of the foregoing, respondent Bar Association of Hawaii prays that the petition for writ of certiorari be denied.

Dated, Honolulu, Hawaii,
October 3, 1958.

Respectfully submitted,

A. WILLIAM BARLOW,
Attorney for the Bar Association of Hawaii,
HERBERT Y. C. CHOY,
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(Appendix I Follows.)

Appendix I

EXHIBIT 1—MATSUOKA'S "NOTES"

Notes on Mrs. Harriet Bouslog Sawyer's speech at People's theater, Honokaa, Sunday, December 14.

She followed Samuel M. Bento, who said he wanted to say good morning to the Tribune-Herald, pointing generally toward the paper's reporter from Hilo and the paper's Honokaa correspondent who were sitting side by side. Mrs. Sawyer preceded Jack W. Hall.

She began speaking at 11 a.m. and ended 11:30 a.m.

Notes on what she said in the order of how she proceeded: The trial is really a trial of Jack Hall to which has been added six others. It's to get at the ILWU.

Said she wanted to tell about some rather shocking and horrible things that go on at the trial.

She was appointed some years ago (3 or 4 years ago) by a court to defend a man who had no money to hire his own counsel. He was charged with pimping and procuring. The complaining witness in the case was a woman who had been in business 20 years in the territory who claimed she had reformed and repented but this vicious man had driven her back again into the business. It turned out that the hotel where he had kept her had 27 doors unlocked. Likened this to pukas in the Smith act.

(R. 385.) The defense committee was established to undertake and finance the defense of Jack Hall and any other union member defendant under the Smith Act. (R. 401-402.) It was handling the financial contributions to this end. (R. 402.) The meeting at Honokaa, however, was not held for the purpose of securing further contributions, because the contribution program of the defense committee had been set up and approved long prior to the time of the Honokaa meeting. (R. 410.) The meeting at Honokaa was for the purpose of reporting back about the Smith Act trial to those who contributed to Jack Hall's trial. (R. 410.)

Jack Hall, one of the defendants in the Smith Act trial then going on in Honolulu and one of the respondents who was being defended by petitioner, was on the speakers' rostrum with petitioner and also gave a speech following petitioner's speech. (App. I, p. i.)

This is the framework within which the questions involving the Honokaa speech must be viewed. The audience was composed of a majority of union members who had contributed to the defense of petitioner's client, Jack Hall. They were conceivably there to hear about how their money was being spent. It is reasonable to assume that these laymen were more interested in the details of the immediate trial rather than in a lawyer's general critique on the provisions of the Smith Act. The stage was thus set for Jack Hall's lawyer's speech.

Petitioner insists she spoke of Smith Act trials in general. (Petition for Writ of Certiorari, p. 23.) The

evidence is otherwise. Virtually all of the testimony in the case undeniably points to the fact that petitioner was referring to the trial then going on in Honolulu. The evidence indicates that petitioner commenced her speech by pointing out that "the trial is really a trial of Jack Hall" to which six others had been added, the purpose being to get at the ILWU. (App. I, p. i.) No reasonable mind would deny that this statement referred to the *Fujimoto* trial.

The news reporter Matsuoka positively testified that petitioner was talking about "[t]he Smith Act trial, that was under way in Honolulu." (R. 150.)

The testimony of Mrs. Thelma Olival, another witness, corroborates this in positive terms:

> "Q. Now what trial was she referring to?
>
> A. To the Jack Hall trial.
>
> Q. Do you know where that trial was being held?
>
> A. In Honolulu here.
>
> Q. There is no doubt in your mind that she was referring to that trial?
>
> A. Oh, yes, she was referring to it." (R. 172.)

Ethel Chong Andrade, a plantation worker, testified that petitioner gave "a very excellent speech", "a very interesting", "very stimulating" talk and that Mrs. Bouslog "said she would like to tell the audience of the horrible and shocking things that went on at the Smith Act trial in Honolulu" and "she also gave several illustrations". (R. 180-181.)

David K. Crabb, another witness, definitely stated that petitioner, in saying that "the defendant in the

Smith Act trial cannot get a fair trial", was talking about the Smith Act trial in Honolulu. (R. 183.)

Another witness, Mrs. Phyllis P. Morse, also testified that "she (petitioner) said there was no such thing as a fair trial under the present Smith Act case in Honolulu". (R. 184.)

These statements were put in honest and candid perspective by petitioner's own counsel, J. Garner Anthony, toward the close of the Ethics Committee hearing, thusly:

> "Mr. Anthony. I will say to the Committee right now—I have read these speeches and I would agree with the conclusion implicit in Mr. Dodge's question, namely that *this was a talk about what was going on in the Smith Act trial here in Honolulu. Now let's not fool ourselves about that. We're lawyers here.*" (Emphasis added.) (R. 526.)

The foregoing testimony amply supports the conclusion that petitioner's remarks were directed towards the Smith Act trial in Honolulu.

Petitioner insists that her attacks on what was going on at the trial did not encompass the trial judge. (Petition for Writ of Certiorari, pp. 22-25.) Apparently in view of the abundant corroboration of this fact in the record, petitioner does not make an issue of whether or not she actually said that shocking and horrible things went on at the trial. The news reporter Matsuoka noted that petitioner "Said she wanted to tell about some rather shocking and horrible

things that go on at the trial." (App. I, p. i.) He also testified that ". . . She said she wanted to tell the people about some of the shocking, horrible things that went on, and that the Smith Act trial could not be a fair one, and that they just had to go around and make rules to fit the situation . . ." (R. 151.)

Mrs. Olival positively testified that petitioner used the words "shocking and horrible things that were going on" in characterizing the Smith Act trials in Honolulu. (R. 172.)

Mrs. Phyllis P. Morse remembered that petitioner gave "various examples of things that I don't recall, that were going on, in what she called the horrifying, shocking trial." (R. 185.)

Petitioner's only contradiction of this overwhelming evidence of record is her testimony that she has no recollection of having made such a statement. (R. 527.) Through her counsel, J. Garner Anthony, she stated that she will not deny having made the statement. (R. 528.) In addition, there is of record the abortive attempt by petitioner's client, Jack Hall, to take the blame for saying that some rather shocking and horrible things are going on at the trial. (R. 395-398.)

Without belaboring this point in view of the weight of the evidence against the probability that no such statement was made in her speech, petitioner argues that there is nothing wrong with such a statement. She points out that many shocking and horrible things go on in the courtroom without any fault of the judge. (Petition for Writ of Certiorari, p. 24.)

The courts below found that the charges did constitute an attack upon the administration of justice and did impugn the integrity of the presiding judge and did tend to create disrespect toward the courts and judicial officers. These findings are established by clear and convincing proof. The news reporter Matsuoka notes that petitioner charged that "there is no such thing as a fair trial in a Smith Act case. All rules of evidence have to be scrapped or the government can't make a case . . . there's no fair trial in the case. They just make up the rules as they go along." (App. I, p. vi.)

Matsuoka testified at the hearing that petitioner charged "that the Smith Act trial could not be a fair one, and that they just had to go around and make the rules to fit the situation." (R. 151.)

In fact, petitioner admitted before the Committee and to Judge Wiig that she did charge that "There's no such thing as a fair trial in the Smith Act case" (R. 443, 444), and in explanation of this charge, she added that there is no such thing as a fair trial in any Smith Act case, including the Smith Act case then going on in Honolulu. (R. 445.)

Mrs. Thelma Olival also testified that "Jack Hall was being tried on something that he read many years ago, and she said that in the Smith Act trial there were no rules, and that they were making up the rules as they went along, . . ." (R. 172.)

Daniel Ramos also testified that "she said there was no fair trial in the Smith Act case." (R. 179.) So did David K. Crabb who testified that petitioner said the

defendant in the Smith Act trial in Honolulu cannot get a fair trial. (R. 183.)

Mrs. Phyllis P. Morse corroborated the fact that petitioner attacked the type of evidence being admitted in the *Fujimoto* trial, thusly: "A. Well, she said that the government could submit any evidence they liked at any time, and that they could also use books that might not have any bearing on the case." (R. 185.)

In support of this theme that there could be no fair trial in the Smith Act case because all the rules of evidence were being scrapped so the government could make its case and the rules of evidence and procedure were made up as the case proceeded, petitioner specifically referred to various happenings which were transpiring in the Smith Act case then being tried in Honolulu. In fact, petitioner admitted picking four illustrations from the *Fujimoto* case to speak about in this connection, specifically naming Johnson and Crouch, two witnesses who testified in the *Fujimoto* case. (R. 450-451.) In referring to the testimony of Johnson, she stated that Johnson came back from San Francisco with Communist books and literature in a duffel bag, that Johnson testified that when he got to Honolulu he told Jack Hall the names of some of the books. She charged that the government then for two days of the trial read from the books supposed to have been in the duffel bag and not with what Jack Hall said. She further stated that on cross-examination Johnson testified that he didn't show the books to Jack Hall, but showed only the duffel bag. (App. I, pp. iv-v.)

Petitioner's client, Jack Hall, confirmed the news reporter's notes on this point. He testified that petitioner did talk about the testimony of Johnson in the Smith Act trial in Honolulu. (R. 406.) He also testified that petitioner talked about the "duffel bag evidence" in this connection. (R. 406.)

Petitioner also testified: ". . . I did make a statement concerning Mr. Johnson showing Mr. Hall a duffel bag containing books and I explained on the basis of Mr. Hall's having seen the duffel bag, the books contained in the duffel bag had been admitted into evidence." (R. 455.)

Petitioner's charge about Johnson's testimony is also confirmed by John D. Morse. (R. 167.)

The record discloses that petitioner also referred to the testimony of Paul Crouch, another witness in the *Fujimoto* trial. (R. 450.) Petitioner specifically admitted that she referred to Crouch's testimony in order to show the people present what kind of testimony was going on at the trial. (R. 454.)

The news reporter Matsuoka's notes state that petitioner charged that in the *Majors-Palakiko* habeas corpus case in which petitioner was involved, the Supreme Court of the Territory refused to allow the testimony of a woman who reported to her that a police officer beat a confession out of one of her clients because the police officer was not present to deny her testimony. Yet "with the same situation a federal judge sitting on a federal bench permits Crouch to testify about 27 years ago, what was said then." (App. I, p. vi.)

When questioned about the evidence, petitioner testified thusly:

> "The Witness. Those are not my words. The substance, the fact that I was in the Majors-Palakiko case—that in that case the Supreme Court of the Territory had refused to permit Mrs. Hughes' testimony; that Vernon Stevens had told her that he had beaten Palakiko was not permitted by the Supreme Court; whereas in the Smith act case in general, as well as in this Smith Act case, people who had been many years away and had never seen this defendant were permitted to testify.
>
> Mr. Barlow. In other words, would it be fair to say that you paralleled that with the phrase that Mr. Matsuoka attributes to you: 'With the same situation, a Federal judge sitting on a Federal Bench, permits Crouch to testify about 27 years ago what was said then'?
>
> The Witness. I used the Palakiko-Majors case as a contrast to Mr. Crouch's testimony and the hearsay testimony in the conspiracy case.
>
> Q. That Judge Wiig was allowing in the present Smith Act case, is that right?
>
> A. The motions hadn't been argued yet.
>
> Q. No, but that Judge Wiig was allowing in the present Smith Act case?
>
> A. Yes, he was." (R. 457.)

This attack on the action of Judge Wiig in the *Fujimoto* case as compared with the action of the territorial court in the *Majors-Palakiko* case is also referred to in the recorded testimony of Gilbert Ferreira. (R. 163.)

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958
No. 326

In the Matter of Disciplinary Proceedings against
HARRIET BOUSLOG SAWYER,
a Member of the Territorial Bar of the Territory of Hawaii,

Petitioner.

REPLY MEMORANDUM TO BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI.

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1. Respondent contends that this disciplinary case is "of a local, territorial nature with no federal implications". (Br. p. 3.) The test here is not the local character of the authority which took the action complained of or the source of the license of which Petitioner was deprived. Rather is it the existence of a violation of one or another safeguard extended by the federal constitution. As this Court once observed in response to contentions similar to that offered by Respondent,

> "There are village tyrants as well as village Hampdens, but none who acts under the color of law is beyond the reach of the Constitution."
>
> *West Virginia v. Barnette,* 319 U. S. 624, 638.

Said men in power are trying to put men in jail because of their thoughts. and books written before he was born.

One of the reasons Jack Hall is on trial is because it is said he once got a book, the Communist Manifesto, written in 1898, before Jack Hall was a gleam in his father's eye.

She quoted from manifesto: a spectre is haunting Europe; the spectre is communism. She explained spectre means ghost. Said spectre still seems to be haunting people today.

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she turned next to conspiracy. noted there was a conspiracy trial in 1937 of filipino brothers. conspiracy to advocate violence and criminal sindicalism. explained conspiracy means agreement. government never has used conspiracy when it had a case. when it hasn't got enough evidence it lumps a number together and says they agreed to do something. the government does not say . . advocated overthrow but says they agreed to. conspiracy means to charge a lot of people for agreeding to do something you have never done.

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touched on myth of agents of fbi. they're supposed to be extra special. radio programs, movies, publicity tell how wonderful they are. but when you see hundreds of tax fraud cases go by and when they spend most of their time investigating people's minds it's

time to cut them down to size. said she had told this to a honolulu gathering. labor day? fbi agents should be called federal cops. said has slogan: put away your thoughts here come the federal cops. cops push people around.

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paul crouch. difficult to understand why he's witness. but he was here in 1924; because he was once in Hawaii, so guess that's why. he testified what he did in russia in 1927. he told what he was told by generals etc. usually you can ot testify on what people told you when there is no chance for those to be cross examined. aileen fujimoto was four years old then. what has crouch's galloping over the plains of russia got any bearing on her. jack hall was 13. but the government goes on with testimony for two weeks on what crouch did between 1927 and 1941 without ever mentioning the defendants.

---

he told of infiltration of the armed forces and plots .... it used to be the idea that a man is responsible for what he did and said—not what someone else did. not a single one of the defendants was of age at the time he's talking about. the jury is not going to pay attention to what Crouch says. but it's the old smear. the prosecution says crouch did this and that and we (prosecution) say the defendants are communist party members so they must have done the same.

but government propaganda has been going on for 10 years before the jurors went into the jury box.

it's enough to say a person is a communist to cook his goose.

the government says there was an agreement to violate the smith act which was passed in 1940. then the defendants agreed to violate it before it was passed. crouch sayd he was at a communist meeting in 1941 and saw five or six people there. it was the first time he'd seen them. but he was satisfied when he came to honolulu 12 years later that one was Koji Ariyoshi. she urged audience try to recall what they did 12 years ago. said she can't recall details. god knows no one has a memory that good. yet they use this kind of testimony.

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why? because they will do anything and everything necessary to convict.

some of the witnesses testified differently from what they testified previously. the government knows this but deliberately goes ahead and have him say things in order to convict. mentioned izuka in reinecke trial testimony. said something about izuka saying he didn't know the party advocated overthrow of government until he got out of party.

witnesses testify what government tells them to. just as they read portions of books like overthrow the government and leave out the rest which says czarist government showing it dealt with russia.

---

johnson testimony. said he came back from san francisco with communist books and literature in a duffle

bag. he said when he got to Honolulu he told Jack Hall the names of some of the books. then the government for two days reads from books supposed to have been in the duffel bag. they're not dealing with what jack hall said.

on cross examination johnson said he did not tell the names of the books but just showed jack hall the duffel bag. so jack hall violated the smith act because he saw a duffel bag with some books on overthrowing the government in it. it's silly. why does the government use your money and mine to put people in jail for

---

the government has carried on a barrage of propaganda for many years and expects people in the jury to have hysteria just hearing about communism is enough to jail. said has a friend who worked for sears roebuck and has family of three children and wife. he made a terrible mistake one time. in 1941 he lived in the same house as jack hall. the fbi wanted him to testify. he said i feel jack hall is one of the finest people i have known. apparently the fbi didn't like this. so they suggested to sears and roebuck to fire him because he wouldn't cooperate with the government.

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he wasn't fired so they went to the Los Angeles and Chicago offices of sears and roebuck and convinced them he had to be fired. he was fired because he refused to be a stool pigeon and informer. the government gets

away with it by making people fear that if they don't do as it wants they'll be branded red and lose their jobs.

there's no such thing as a fair trial in a smith act case. all rules of evidence have to be scrapped or the government can't make a case.

referred to her habeas corpus move in the palakiko-majors case.

---

said a woman came to her with report she heard vernon stevens say he beat a confession out of one of them. she testified but the supreme court refused to let the evidence in because vernon stevens was not here and had no chance to deny this. with the same situation a federal judge sitting on a federal bench permits crouch to testify about 27 years ago. what was said then.

in the previous case it was the life and death of one. and yet here they permit a witness to tell what was said when a defendant was five years old.

---

there's no fair trial in the case. they just make up the rules as they go along.

the first smith act case was in 1949 of the new york top leaders. attorneys contended they should have the right to say what they did from 1924. medina permitted them to say what the defendants themselves did from 1924 on. but the government can't make a

case if it tells just what they did so they widened the rules and tell what other people did years ago, including everything including the kitchen sink.

---

unless we stop the smith trial in its tracks here there will be a new crime. people will be charged with knowing what is included in books. ideas.

mentioned los angeles trial in which someone said there was no evidence that someone had instructed persons not to read some books.

said there'll come a time when the only thing to do is to keep your children from learning how to read. then not only will unions be destroyed by so will freedom of thoughts and action. there'll be dark ages of thought control when people won't be able to speak freely in taverns and other places.

she urged audience to go out and explain what a vicious thing the smith act is. people are tried for books written years ago.